

STATE OF MICHIGAN
COURT OF APPEALS

DALLAS DANIELS and JANE DANIELS,

Plaintiffs-Appellants,

v

W. ALAN RACETTE, D.D.S., M.S., and
W. ALAN RACETTE, D.D.S., M.S., P.C.,

Defendants-Appellees.

UNPUBLISHED

May 13, 1997

No. 192790

Ingham Circuit Court

LC No. 94-78386 NH

Before: Corrigan, C.J., and Young and M.J. Talbot*, JJ.

MEMORANDUM.

Pursuant to the Supreme Court's order of remand for consideration on leave granted, defendant appeals denial of his motion for summary disposition, which motion was predicated on plaintiff's failure to comply with the notice requirement of RJA §2912b. This case is being decided without oral argument pursuant to MCR 7.214(E).

We vacate the circuit court's order denying summary disposition and remand for further proceedings consistent with this Court's decision in *Morrison v Dickinson*, 217 Mich App 308; 551 NW2d 449 (1996). On remand, the parties are free to stipulate to obviate the necessity of dismissal without prejudice and immediate refiling of the action where it appears no useful purpose would be served thereby.

Vacated and remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Maura D. Corrigan

/s/ Robert P. Young, Jr.

/s/ Michael J. Talbot

* Circuit judge, sitting on the Court of Appeals by assignment.